

**SENATE BILL**

**No. 7**

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**Introduced by Committee on Budget and Fiscal Review**

January 27, 2003

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An act to amend Section 14556.8 of the Government Code, to amend Sections 21682 and 21683.1 of the Public Utilities Code, and to amend Section 7104 of the Revenue and Taxation Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as introduced, Committee on Budget and Fiscal Review. Transportation finance.

(1) Existing law requires that certain revenues from sales and use taxes on motor vehicle fuel be transferred from the General Fund to the Transportation Investment Fund beginning in the 2003–04 fiscal year. Under Article XIX B of the California Constitution, this revenue transfer may in specified circumstances be suspended in whole or in part for a fiscal year. Existing law, the Traffic Congestion Relief Act of 2000, establishes the Traffic Congestion Relief Fund (TCRF) that is funded in part by General Fund revenue deposited in the Transportation Investment Fund. Existing law authorizes a loan, through the annual Budget Act, of funds in the TCRF not currently needed by projects authorized to be funded under the act, to the General Fund. Under existing law, the General Fund is required to repay all of these loans by June 30, 2006, and is also required to repay these loans earlier if funds in the TCRF are inadequate, as determined by the Director of Finance, to support TCRF projects.

This bill would additionally authorize a loan of TCRF funds to the General Fund through legislation other than the annual Budget Act. The bill would cancel any obligation for repayment of \$100,000,000 loaned from the TCRF to the General Fund in the Budget Act of 2002.

(2) Existing law establishes the Aeronautics Account in the State Transportation Fund and requires the Department of Transportation to establish individual revolving fund subaccounts for eligible airports in the Aeronautics Account. Existing law requires that funds in the account be paid to certain public entities owning and operating an airport for projects for airport and aviation purposes, as defined, or operation and maintenance purposes, as defined. Existing law authorizes any balance remaining in the fund to be used as a portion of the local match for federal Airport Improvement Program grants for general aviation airports, as defined, or reliever airports, as defined. Existing law prohibits the California Transportation Commission from allocating funds until the federal grant offer is accepted by the public entity. Existing law authorizes the Department of Transportation, until December 31, 2006, upon allocation of the funds by the commission, to pay a public entity 10% of the local matching share of a federal Airport Improvement Program grant for security projects, as defined, at small general aviation airports, as defined.

This bill would provide that the balance of funds in the Aeronautics Account credited to airport subaccounts may be transferred to the General Fund, upon appropriation by the Legislature and that the credit of funds to subaccounts is suspended for the 2003–04 fiscal year. The bill would further provide that in allocating funds for use in providing a portion of the local match for federal Airport Improvement Program grants, the commission is required to give highest priority to grants for security projects.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 14556.8 of the Government Code is
- 2 amended to read:
- 3 14556.8. (a) (1) To the extent necessary to provide adequate
- 4 cash to fund projected expenditures under this chapter, the



1 Director of Finance may authorize, by Executive order, the  
2 transfer of not more than one hundred million dollars  
3 (\$100,000,000), as an interest free loan, from the Motor Vehicle  
4 Account in the State Transportation Fund to the TCRF, and the  
5 transfer of any available funds, as an interest free loan, from the  
6 General Fund to the TCRF. Loans from the Motor Vehicle Account  
7 may be made no sooner than July 1, 2004, and shall be repaid no  
8 later than July 1, 2007. The Director of Finance shall not authorize  
9 a loan from the Motor Vehicle Account, and shall promptly require  
10 the repayment of any outstanding balance owed to that account, if  
11 the funds are needed in the account to make expenditures  
12 authorized in the annual Budget Act and by any other  
13 appropriations made by the Legislature.

14 (2) To provide cash needed for expenditures on projects listed  
15 in Section 14556.40, the Legislature may authorize loans from the  
16 Public Transportation Account or the State Highway Account to  
17 the TCRF through the annual Budget Act. The Legislature may  
18 also authorize the State Highway Account to expend funds on  
19 behalf of projects listed in Section 14556.40 and those  
20 expenditures shall constitute a loan to the TCRF. Loans from the  
21 Public Transportation Account shall not exceed a cumulative total  
22 of two hundred eighty million dollars (\$280,000,000), and loans  
23 from the State Highway Account shall not exceed a cumulative  
24 total of six hundred fifty-four million dollars (\$654,000,000).

25 (b) The Director of Finance shall order the repayment of the  
26 loans authorized under this section under those terms and  
27 conditions that the director deems appropriate, upon determining  
28 that there are adequate funds available for that purpose in the  
29 TCRF and that repayment will not jeopardize the availability of  
30 money needed to fund approved and projected expenditures under  
31 this chapter. All loans from the Public Transportation Account  
32 shall be repaid by June 30, 2008, and all loans from the State  
33 Highway Account shall be repaid by June 30, 2007. Upon the  
34 request of the commission or the Director of Finance, the  
35 department shall provide a report, for purposes of this subdivision,  
36 projecting the cash needs of the projects approved under this  
37 chapter.

38 (c) (1) Money in the TCRF derived from the General Fund and  
39 not currently needed for expenditures on the projects listed in

1 Section 14556.40 may be loaned to the General Fund through the  
2 annual Budget Act *or other legislation*.

3 (2) Upon making a determination that funds in the TCRF are  
4 not adequate to support expected cash expenditures for the listed  
5 projects, the Director of Finance, by Executive order, shall require  
6 that funds loaned to the General Fund under paragraph (1) be  
7 repaid to the TCRF. All these loans shall be repaid no later than  
8 June 30, 2006.

9 (3) Interest at the rate earned by the Surplus Money Investment  
10 Fund shall be paid to the TCRF from the General Fund with respect  
11 to the cumulative amount loaned from the State Highway Account  
12 to the TCRF pursuant to paragraph (2) of subdivision (a) that is in  
13 excess of one hundred eighty million dollars (\$180,000,000). The  
14 amount of this interest obligation shall be calculated annually on  
15 the balance of this portion of this outstanding loan amount. All  
16 interest on the loan shall be paid in full on or before June 30, 2007,  
17 and the interest payment shall be transferred from the TCRF to the  
18 State Highway Account.

19 (d) Funds loaned to the TCRF under this section shall be used  
20 for purposes consistent with any restrictions on uses of those funds  
21 imposed under the California Constitution or by statute. The  
22 department shall identify specific projects to which those funds  
23 may properly be applied and shall propose that application of  
24 funds to the commission. The commission shall designate projects  
25 to receive those funds through the processes described in Article  
26 3 (commencing with Section 14556.10) and Article 4  
27 (commencing with Section 14556.25). The department shall  
28 report periodically to the commission and the Department of  
29 Finance on the expenditure of those funds.

30 (e) This section shall become inoperative on July 1, 2008, and,  
31 as of January 1, 2009, is repealed, unless a later enacted statute,  
32 that becomes operative on or before January 1, 2009, deletes or  
33 extends the dates on which it becomes inoperative and is repealed.

34 SEC. 2. Section 21682 of the Public Utilities Code is amended  
35 to read:

36 21682. (a) The department shall establish individual  
37 revolving fund subaccounts for eligible airports in the Aeronautics  
38 Account in the State Transportation Fund. Money payable under  
39 this section shall be credited to individual airport subaccounts

1 annually, and may be accumulated for a maximum period of five  
2 years.

3 (b) The department shall, subject to Section 21684, credit from  
4 the Aeronautics Account to each public entity owning and  
5 operating an airport or airports under a valid permit issued by the  
6 department for every airport which has not been designated by the  
7 Federal Aviation Administration as (1) a reliever airport, as  
8 defined in Section 503 (a) (19) of the federal Airport and Airway  
9 Improvement Act of 1982, as amended, or (2) a commercial  
10 service airport, as defined in Section 503 (a) (5) of the federal  
11 Airport and Airway Improvement Act of 1982, as amended, the  
12 sum of ten thousand dollars (\$10,000) annually for each qualifying  
13 airport. These funds shall be paid to public entities upon request  
14 for expenditure on preapproved eligible projects. Eligible public  
15 entities may submit applications for the withdrawal of credited  
16 funds for expenditure on proposed projects in letter form to the  
17 department for review and approval. Projects identified shall be  
18 for airport and aviation purposes and operation and maintenance  
19 purposes. No payment made under this section is transferable, but  
20 shall be expended only upon the airport for which the payment is  
21 made, unless the department authorizes a payment to be  
22 transferred for expenditure on another airport owned or operated  
23 by the public entity. The department may establish any accounting  
24 systems it deems necessary to provide for the cumulation and  
25 expenditure of funds under this subdivision.

26 (c) If, in any year, there is insufficient money in the  
27 Aeronautics Account to make the credits specified in subdivision  
28 (b), the department shall, subject to Section 21684, credit to each  
29 public entity subaccount an amount which is equal to the total  
30 amount of money in the Aeronautics Account multiplied by a  
31 percentage equivalent to the proportion which the airport or  
32 airports of the public entity for which credit is required to be made  
33 pursuant to subdivision (b) bear to the total number of airports for  
34 which credit is required to be made pursuant to subdivision (b).

35 (d) No payment shall be made under this section to any public  
36 entity for any airport on which general or commercial aviation  
37 activities are substantially restricted if the airport is licensed to  
38 conduct these activities by the department. The department shall  
39 determine whether or not general or commercial aviation activities  
40 are restricted.

(e) The department shall adopt rules and regulations and establish procedures to effect prompt payment to public entities for eligible airport projects from money credited pursuant to this section.

*(f) Notwithstanding any other provision of this article, the balance of funds in the Aeronautics Account credited to airport subaccounts pursuant to subdivisions (a) and (b), may be transferred, upon appropriation by the Legislature, to the General Fund.*

*(g) The credit of funds from the Aeronautics Account pursuant to subdivision (b), shall be suspended for the 2003–04 fiscal year.*

SEC. 3. Section 21683.1 of the Public Utilities Code is amended to read:

21683.1. (a) At the discretion of the commission, any balance remaining in the Aeronautics Account, after the payments made under Section 21682, may be used to provide a portion of the local match for federal Airport Improvement Program grants. Matching shall be provided only for grants at general aviation airports, or at airports that have been designated by the Federal Aviation Administration as reliever airports, as defined in Section 503(a)(19) of the federal Airport and Airway Improvement Act of 1982, as amended.

(b) Funds shall not be allocated by the commission until the federal grant offer is accepted by the public entity. Upon allocation by the commission, the department may pay a public entity an amount equal to 5 percent of the amount of a federal Airport Improvement Program grant. These funds are excluded from the requirements of Section 21684.

(c) Funds shall not be allocated by the commission until the federal grant offer is accepted by the public entity. Upon allocation by the commission, the department may, until December 31, 2006, pay a public entity an amount equal to the 10 percent local match required for a federal Airport Improvement Program grant for security projects at small general aviation airports. For purposes of this section, a “security project” means a project to install or maintain fencing, gates, security lighting, access controls systems, and surveillance systems. For purposes of this section a “small general aviation airport” means an airport with fewer than 80,000 annual landings and take-offs of aircraft.

(d) *Notwithstanding any other provision of this article, grants for security projects, as defined in subdivision (c), shall be the highest priority for grants awarded by the commission.*

SEC. 4. Section 7104 of the Revenue and Taxation Code is amended to read:

7104. (a) The Transportation Investment Fund (hereafter the fund) is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated without regard to fiscal years for disbursement in the manner and for the purposes set forth in this section.

(b) All of the following shall occur on a quarterly basis:

(1) The State Board of Equalization, in consultation with the Department of Finance, shall estimate the amount that is transferred to the General Fund under subdivision (b) of Section 7102 that is attributable to revenue collected for the sale, storage, use, or other consumption in this state of motor vehicle fuel, as defined in Section 7304.

(2) The State Board of Equalization shall inform the Controller, in writing, of the amount estimated under paragraph (1).

(3) Commencing with the 2003–04 fiscal year, the Controller shall transfer the amount estimated under paragraph (1) from the General Fund to the fund.

(c) For each quarter during the period commencing on July 1, 2003, and ending on June 30, 2008, the Controller shall make all of the following transfers and apportionments from the funds identified for transfer under paragraph (2) of subdivision (b) in the following order:

(1) To the Traffic Congestion Relief Fund created in the State Treasury by Section 14556.5 of the Government Code, the sum of one hundred sixty-nine million five hundred thousand dollars (\$169,500,000), except that the transfer for the final quarter shall be ninety-three million four hundred thousand dollars (\$93,400,000), for a total transfer of three billion three hundred thirteen million nine hundred thousand dollars (\$3,313,900,000).

(2) To the Public Transportation Account, a trust fund in the State Transportation Fund, 20 percent of the amount remaining after the transfer required under paragraph (1). Funds transferred

1 under this paragraph shall be appropriated by the Legislature as  
2 follows:

3 (A) To the Department of Transportation, 50 percent for  
4 purposes of subdivision (a) or (b) of Section 99315 of the Public  
5 Utilities Code.

6 (B) To the Controller, 25 percent for allocation pursuant to  
7 Section 99314 of the Public Utilities Code. Funds allocated under  
8 this subparagraph shall be subject to all of the provisions  
9 governing funds allocated under Section 99314 of the Public  
10 Utilities Code.

11 (C) To the Controller, 25 percent for allocation pursuant to  
12 Section 99313 of the Public Utilities Code. Funds allocated under  
13 this subparagraph shall be subject to all of the provisions  
14 governing funds allocated under Section 99313 of the Public  
15 Utilities Code.

16 (3) To the Department of Transportation for expenditure for  
17 programming for transportation capital improvement projects  
18 subject to all of the provisions governing the State Transportation  
19 Improvement Program, 40 percent of the amount remaining after  
20 the transfer required under paragraph (1), except that in the  
21 2006–07 and 2007–08 fiscal years, the transfer shall be 80 percent  
22 of the amount remaining after the transfer required under  
23 paragraph (1).

24 (4) To the Controller for apportionment to the counties,  
25 including a city and county, 20 percent of the amount remaining  
26 after the transfer required under paragraph (1), except that in the  
27 2006–07 and 2007–08 fiscal years, no transfer may be made under  
28 this paragraph. Funds transferred under this paragraph shall be  
29 allocated in accordance with the following formulas:

30 (A) Seventy-five percent of the funds payable under this  
31 paragraph shall be apportioned among the counties in the  
32 proportion that the number of fee-paid and exempt vehicles that  
33 are registered in the county bears to the number of fee-paid and  
34 exempt vehicles registered in the state.

35 (B) Twenty-five percent of the funds payable under this  
36 paragraph shall be apportioned among the counties in the  
37 proportion that the number of miles of maintained county roads in  
38 each county bears to the total number of miles of maintained  
39 county roads in the state. For the purposes of apportioning funds  
40 under this subparagraph, any roads within the boundaries of a city



1 and county that are not state highways shall be deemed to be  
2 county roads.

3 (5) To the Controller for apportionment to cities, including a  
4 city and county, 20 percent of the amount remaining after the  
5 transfer required under paragraph (1), except that in the 2006–07  
6 and 2007–08 fiscal years, no transfer may be made under this  
7 paragraph. Funds transferred under this paragraph shall be  
8 apportioned among the cities in the proportion that the total  
9 population of the city bears to the total population of all the cities  
10 in the state.

11 (d) Funds received under paragraph (4) or (5) of subdivision (c)  
12 shall be deposited as follows in order to avoid the commingling of  
13 those funds with other local funds:

14 (1) In the case of a city, into the city account that is designated  
15 for the receipt of state funds allocated for transportation purposes.

16 (2) In the case of a county, into the county road fund.

17 (3) In the case of a city and county, into a local account that is  
18 designated for the receipt of state funds allocated for  
19 transportation purposes.

20 (e) Funds allocated to a city, county, or city and county under  
21 paragraph (4) or (5) of subdivision (c) shall be used only for street  
22 and highway maintenance, rehabilitation, reconstruction, and  
23 storm damage repair. For purposes of this section, the following  
24 terms have the following meanings:

25 (1) “Maintenance” means either or both of the following:

26 (A) Patching.

27 (B) Overlay and sealing.

28 (2) “Reconstruction” includes any overlay, sealing, or  
29 widening of the roadway, if the widening is necessary to bring the  
30 roadway width to the desirable minimum width consistent with the  
31 geometric design criteria of the department for 3R (reconstruction,  
32 resurfacing, and rehabilitation) projects that are not on a freeway,  
33 but does not include widening for the purpose of increasing the  
34 traffic capacity of a street or highway.

35 (3) “Storm damage repair” is repair or reconstruction of local  
36 streets and highways and related drainage improvements that have  
37 been damaged due to winter storms and flooding, and construction  
38 of drainage improvements to mitigate future roadway flooding  
39 and damage problems, in those jurisdictions that have been  
40 declared disaster areas by the President of the United States, where

1 the costs of those repairs are ineligible for emergency funding with  
2 Federal Emergency Relief (ER) funds or Federal Emergency  
3 Management Administration (FEMA) funds.

4 (f) (1) Cities and counties shall maintain their existing  
5 commitment of local funds for street and highway maintenance,  
6 rehabilitation, reconstruction, and storm damage repair in order to  
7 remain eligible for the allocation of funds pursuant to paragraph  
8 (4) or (5) of subdivision (c).

9 (2) In order to receive any allocation pursuant to paragraph (4)  
10 or (5) of subdivision (c), the city or county shall annually expend  
11 from its general fund for street, road, and highway purposes an  
12 amount not less than the annual average of its expenditures from  
13 its general fund during the 1996–97, 1997–98, and 1998–99 fiscal  
14 years, as reported to the Controller pursuant to Section 2151 of the  
15 Streets and Highways Code. For purposes of this paragraph, in  
16 calculating a city’s or county’s annual general fund expenditures  
17 and its average general fund expenditures for the 1996–97,  
18 1997–98, and 1998–99 fiscal years, any unrestricted funds that the  
19 city or county may expend at its discretion, including vehicle  
20 in-lieu tax revenues and revenues from fines and forfeitures,  
21 expended for street and highway purposes shall be considered  
22 expenditures from the general fund. One-time allocations that  
23 have been expended for street and highway purposes, but which  
24 may not be available on an ongoing basis, including revenue  
25 provided under the Teeter Plan Bond Law of 1994 (Chapter 6.6  
26 (commencing with Section 54773) of Part 1 of Division 2 of Title  
27 5 of the Government Code, may not be considered when  
28 calculating a city’s or county’s annual general fund expenditures.

29 (3) For any city incorporated after July 1, 1996, the Controller  
30 shall calculate an annual average of expenditure for the period  
31 between July 1, 1996, and December 31, 2000, that the city was  
32 incorporated.

33 (4) For purposes of paragraph (2), the Controller may request  
34 fiscal data from cities and counties in addition to data provided  
35 pursuant to Section 2151 of the *Streets and Highways Code*, for the  
36 1996–97, 1997–98, and 1998–99 fiscal years. Each city and  
37 county shall furnish the data to the Controller not later than 120  
38 days after receiving the request. The Controller may withhold  
39 payment to cities and counties that do not comply with the request  
40 for information or that provide incomplete data.

(5) The Controller may perform audits to ensure compliance with paragraph (2) when deemed necessary. Any city or county that has not complied with paragraph (2) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (2) shall be reallocated to the other counties and cities whose expenditures are in compliance.

(6) If a city or county fails to comply with the requirements of paragraph (2) in a particular fiscal year, the city or county may expend during that fiscal year and the following fiscal year a total amount that is not less than the total amount required to be expended for those fiscal years for purposes of complying with paragraph (2).

(7) The allocation made under paragraph (4) or (5) of subdivision (c) shall be expended not later than the end of the fiscal year following the fiscal year in which the allocation was made, and any funds not expended within that period shall be returned to the Controller and shall be reallocated to the other cities and counties pursuant to the allocation formulas set forth in paragraph (4) or (5) of subdivision (c).

(g) The Los Angeles County Metropolitan Transportation Authority shall give first priority for using its share of the funds made available under subparagraphs (B) and (C) of paragraph (2) of subdivision (c) to providing the levels of bus service mandated under the consent decree entered into by the authority on October 29, 1996, in the case of Labor/Community Strategy Center, et al. v. Los Angeles County Metropolitan Transportation Authority.

(h) For the purpose of allocating funds under paragraph (4) or (5) of subdivision (c) to counties, cities, and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the ~~Revenue and Taxation Code~~.

(i) This section shall become inoperative on the date that all encumbrances incurred for the projects funded under paragraph (3) of subdivision (c) have been liquidated or on June 30, 2008,

1 whichever date is later, and as of the January 1 immediately  
2 following that date is repealed.

3 SEC. 5. Notwithstanding Provision 1 of Item 2660-011-3007  
4 of the Budget Act of 2002 (Ch. 379, Stats. 2002) or any other  
5 provision of law, one hundred million dollars (\$100,000,000) of  
6 the total amount transferred by that item from the Traffic  
7 Congestion Relief Fund to the General Fund constitutes a transfer  
8 of revenue to the General Fund and is not a loan to the General  
9 Fund that is required to be repaid to the Traffic Congestion Relief  
10 Fund.

11 SEC. 6. This act is an urgency statute necessary for the  
12 immediate preservation of the public peace, health, or safety  
13 within the meaning of Article IV of the Constitution and shall go  
14 into immediate effect. The facts constituting the necessity are:

15 To ensure adequate funding for the operation of state  
16 government, it is necessary that this act take effect immediately.

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